

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KIM HALL,

Plaintiff,

vs.

Case No. 14-CV-13578
HON. GEORGE CARAM STEEH
MAG. JUDGE MICHAEL HLUCHANIUK

THIRD JUDICIAL CIRCUIT
COURT, BRUCE U. MORRIS,

Defendants.

_____ /

ORDER ACCEPTING MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION [DOC. 15]

Pro se prisoner plaintiff pled guilty to two counts of first degree criminal conduct and the Honorable Bruce U. Morrow sentenced plaintiff to concurrent terms of 19 to 40 years' imprisonment. Plaintiff brought this civil rights action alleging that his request for the appointment of appellate counsel was wrongfully denied by defendants the Third Judicial Circuit Court and Judge Morrow. This matter was referred to Magistrate Michael Hluchaniuk for all pretrial matters. Defendants moved to dismiss for failure to state a claim on the grounds that defendant Third Judicial Circuit Court is not a "person" within the meaning of 42 U.S.C. § 1983, the record is devoid of any evidence that plaintiff requested appellate counsel, and Judge Morrow is shielded from suit by the doctrine of absolute judicial immunity. Plaintiff failed to respond to the motion to dismiss but filed a motion to stay the proceedings alleging that he did not have a copy of his complaint. The court provided plaintiff with a copy of the complaint, extended the time

period for him to respond to the motion to dismiss, and cautioned him that the failure to file a timely response could result in possible sanctions, including dismissal. Plaintiff failed to file a response. The court then ordered plaintiff to show cause why the case should not be dismissed for plaintiff's failure to respond to the dispositive motion. Plaintiff failed to respond to the court's show cause order.

On April 16, 2015, Magistrate Judge Michael Hluchaniuk issued his report and recommendation recommending that plaintiff's complaint be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for plaintiff's failure to prosecute and to comply with the court's orders, and that defendant's motion to dismiss be granted. The court has reviewed the file, record, and magistrate judge's report and recommendation. Plaintiff has not filed any objections to that report and the time period for doing so has expired. The failure to file objections to a report and recommendation generally constitutes a waiver of the right to appeal the judgment of the district court. Thomas v. Arn, 474 U.S. 140, 155 (1985); Alspaugh v. McConnell, 643 F.3d 162, 166 (6th Cir. 2011). Accordingly,

IT IS HEREBY ORDERED that the court ACCEPTS and ADOPTS the magistrate judge's report and recommendation (Doc. 15).

IT IS FURTHER ORDERED that defendant's motion to dismiss (Doc. 9) is GRANTED and plaintiff's complaint is DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

Dated: May 8, 2015

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record and
Kim Hall 184660, Oaks Corr. Facility, 1500 Caberfae Hwy,
Manistee, MI 49660 on
May 8, 2015, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk